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State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas and Mining

JOHN R. BAZA
Division Director

June 11, 2009

CERTIFIED RETURN RECEIPT
7005 2570 0000 4801 6942

Bill Howell
CE Butters Realty and Construction
760 N. Hwy 89
Harrisville, UT 84404

Subject: In the Matter of Stop Work Conference, Findings, Conclusions and Order for the Towers Sand and Gravel Mine, Cessation Order MC-2009-17-03, M/057/0006, Weber County, Utah

Dear Mr. Howell:

On June 10, 2009, the Division of Oil, Gas and Mining (Division) held a Stop Work Conference at the CE Butters Realty and Construction Inc. (CE Butters) offices in Harrisville, Utah. The following individuals attended: Presiding: Dana Dean, Associate Director, and Paul Baker, Minerals Program Manager, for the Division, and Kent Butters and Kevin Butters representing CE Butters.

The Findings and Conclusions and Order in this matter are based on information provided by the Division and Messrs. Butters in connection with this Stop Work Conference.

FINDINGS & CONCLUSIONS

1. Cessation Order MC-2009-17-03 was issued June 9, 2009 for 'conducting mining operations without appropriate approvals and adequate surety' and required all mining to cease.
2. In a phone call received June 9, 2009, Mr. Bill Howell of CE Butters requested Stop work conference.
3. A Stop Work Conference was scheduled and held June 10, 2009 at 7:00 am, in accordance with R647-6-102.4.
4. On November 29, 2006, the operator requested that the site be released on the basis that it is a sand and gravel operation.



5. After a January 10, 2007 inspection where it was noted that the Towers Sand and Gravel Mine was indeed mining in bedrock, and in a small clay pit, the Division denied the request by a letter dated January 17, 2007. The letter said the operation may have exceeded the five-acre limit for a small mine and required that the operator submit information identifying the full extent of the mining operation within 60 days. Subsequently a Notice of Intention to Commence Small Mining Operations was submitted and approved together with a surety in the amount of \$18,600.00 for a five-acre operation. This approval was sent March 15, 2007.
6. Mr. Baker inspected the mine again in April 2008, and based on his observations, and the Division's GIS Specialist's (Dan Smith) calculations the mined area was greater than 5 acres.
7. On April 17, 2008 the Division notified CE Butters that a revised Notice of Intent (NOI) to commence large mining operations (LMO) was required by June 16, 2008.
8. CE Butters submitted the requested NOI and required fee on June 16, 2008.
9. On September 30, 2008, the Division responded to the NOI with questions regarding the NOI, and requested a total interim bond of \$197,400 based on average per-acre costs. Both a response to the Division's questions, and the interim bond were required to be submitted by December 1, 2008.
10. Further (undocumented in Division files) communication occurred between the Division and CE Butters.
 - When it appeared that CE Butters was diligently working toward a bond, but just had not had enough time, the Division did not enforce the December 1, 2008 deadline.
 - At one point CE Butters was pursuing a collateral bond, which is allowed as per Utah Code Title 40 (40-8-14.2(e)(i)). There was some confusion on both sides (CE Butters wishing to use the mined land in question as a collateral bond, the Division unaware that the provision to post a collateral bond's absence from the R647 Rules did not preclude its use) that caused delay in the bonding efforts.
 - Mr. Lynn Kunzler, current assigned inspector for the mine gave a new deadline for the surety as June 1, 2009.
11. CE Butters had been working with Stratford Insurance Group (SIG) to secure a surety bond. CE Butters has dealt exclusively with performance bonds and bid bonds in the past, no long-term bonding such as the Mining Act requires.
12. Mr. Val Stratford of SIG was finally referred to Viking Bond Service on May 20, 2009. As of Friday, June 5, the last date he had been able to contact Viking, they were sure they would be approving the bond, but needed further review.

13. Dana Dean heard from Mr. Tom Buckner of Viking Bond Service on June 11, 2009. He indicated that they would be approving the bond offer, with terms. He anticipated that final terms would be presented to CE Butters on June 11, and that the finalization process after that would be quite short, if CE Butters responds quickly.
14. Mr. Kent Butters indicated that there was at least one week's worth of stockpiled, saleable material at the mine as of June 10, 2009.
15. It is concluded by the Conference Officer that the Cessation Order is affirmed with the following conditions and allowances.

ORDER

- Cessation Order MC-2009-17-03, issued June 9, 2009, is hereby affirmed.
- Previously stockpiled material may be transported from the mine and sold from 8:00 am on June 10 to 11:59 pm on June 17.
- *Exposed* boulders may be removed from the mine and sold from 8:00 am on June 11 to 11:59 pm on June 17. No overburden may be removed to expose boulders.
- No further mining activities, except as described above, shall be allowed until an interim bond of \$197,400 (total) is posted with the Division.
- The cessation order will be lifted upon receipt of the interim bond of \$197,400 (total)
- A comprehensive response to the Division's September 15, 2008 review will no longer be a condition for abatement of this CO, but must be provided by July 6, 2009 to avoid further enforcement action.

If you wish to appeal this Order, you may do so by contacting the Division within 30 days of receipt. Please contact Vickie Southwick at (801) 538-5304. If you have any questions regarding this letter, please contact Dana Dean at (801) 538-5320 or Paul Baker at (801) 538-5261.

Sincerely,



Dana Dean
Associate Director

DD:vs

cc: John Baza, DOGM
Paul Baker, DOGM
Lynn Kunzler, DOGM

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